

under with reasonable certainty as to what acts or actions are prohibited by it. . . .

"Appellant Byrne's final proposition is untenable. His entire argument is directed to the point that the words 'procure the miscarriage of such woman' do not convey a definite and certain meaning. 'Miscarriage' is thus defined in Bouvier's Law Dictionary, Volume 2, page 2221:

"The expulsion of the ovum or embryo from the uterus within the first six weeks after conception. Between that time, and before the expiration of the sixth month, when the child may possibly live, it is termed abortion. When the delivery takes place soon after the sixth month, it is denominated premature labor. But the criminal act of destroying the fetus at any time before birth is termed, in law, procuring miscarriage."

"An almost identical definition will be found in Cyclopedic Law Dictionary, page 662, and substantially the same definition is given in each of the modern dictionaries of the English language. It is, therefore, evident that the phrase as used in the statute was sufficiently explicit to inform persons of common intelligence and understanding of the acts which were prohibited."

Even if we concede for present purposes that Count 7 of the indictment, as urged by the appellant Byrne, is deficient because of its failure to charge the aborting of a "pregnant" woman, we are of the opinion that no prejudice resulted therefrom, inasmuch as the evidence adduced upon the trial established the pregnancy of the woman involved. Therefore, under Section 4½ of Article 6 of the Constitution the assumed defect is insufficient to warrant a reversal of the judgment. (*People vs. Bonfanti*, 40 Cal. App. 614, 181 Pac. 80; *People vs. Buttulia*, 70 Cal. App. 444, 233 Pac. 401.) In the *Bonfanti* case, *supra*, the defendant was charged with assault with intent to commit rape, but the information failed to allege, as specified in Section 261 of the Penal Code, that the woman whom the defendant had assaulted was not his wife. The evidence, however, definitely indicated that she was not his wife. Under the circumstances, it was held that the defect in the information was not prejudicial in the light of Section 4½, *supra*. The reasoning of that case is applicable here, and the contention of the appellant Byrne with respect to Count 7 of the indictment does not call for a reversal of the judgment thereon.

The judgment and orders denying the motions for new trial relative to the appellants James Beggs, Jesse C. Ross and Valentine St. John are and each is reversed, and a new trial is ordered.

The judgments and orders relative to William A. Byrne on Counts 1, 2, 5, 7, and 9 are and each is affirmed.

WASTE, C. J.

We concur: Houser, J., Shenk, J., Curtis, J., Edmonds, J., Seawell, J.

## MEDICAL CLINICS PLAN: PUBLIC HEALTH EXHIBITS

### Golden Gate International Exposition: San Francisco

In the huge Hall of Science at the 1939 Golden Gate International Exposition, thirty of America's leading research laboratories will tell the story of the remarkable recent progress which has been made in the prevention and treatment of disease.

Led by such world-famous institutions as the Mayo Clinic, the Jackson Clinic, the American Medical Association, and the American Society for the Control of Cancer, these laboratories will present a dramatic picture of the latest advances in medicine and its related fields. The exhibit plans will also have the coöperation of the country's leading universities, notably the University of California, Stanford University, the California Institute of Technology, University of Southern California, Harvard University, University of Oregon, and the University of Washington.

According to Milton Silverman, Director of the Hall of Science for the \$50,000,000 World's Fair of the West, these exhibits will place the major emphasis on the prevention of disease rather than its treatment. Following a 9000-mile trip to the outstanding laboratories and clinics of the United States, Silverman reports that amazing exhibits are being planned to illustrate the tremendous strides which are being made in research and disease prevention.

Reservations for space in the Hall of Science have already been made by the Mayo Clinic of Rochester, Minne-

sota, and plans are under way for a complete research exhibit at the Fair under the direction of Dr. Charles Mayo, Dr. Donald Balfour, who is now active head of the Mayo Clinic, and Dr. Walter Alvarez, internationally famous physiologist.

Supervised by Doctor Alvarez, a new and improved model of the transparent man will be shown, particularly emphasizing the digestive apparatus of the human being. From the extensive scientific museum at Rochester will come many astonishing displays built for use at the Exposition. Other material especially prepared for the Fair, will show the remarkable technique which has been attained in plastic surgery. Displays showing the prevention and treatment of appendicitis have also been promised, and educational exhibits pertaining to diabetes, asthma and experimental dentistry are also contemplated. The Mayo Clinic will also participate in the cancer exhibit and the embryological exhibit.

The Jackson Clinic of Madison, Wisconsin, will center all its efforts on one central exhibit, the story of the thyroid gland. This display will show the normal activity of the gland and how it secretes the amazing and highly powerful hormone, thyroxin. Special consideration will be given to the remarkable achievement in preventing both physical and mental destruction through the impairment of this gland and the importance of iodine in keeping the gland functioning. Attention will also be focused on the so-called goiter belt stretching across northern United States, and dynamic exhibits will demonstrate the prevention of goiter and cretinism. Dr. Arnold Jackson, head of the clinic, will personally direct these activities at the San Francisco Exposition.

Two Wisconsin schools planning to participate in the medical exhibit are the Marquette University and the University of Wisconsin. Dr. Eben J. Carey of Marquette, who was in charge of medical exhibits at the Century of Progress, is heading a group which is planning an outstanding exhibit on embryology, "How Life Begins."

At the University of Wisconsin an exhibit is being prepared to show the modern use of drugs and chemical to alleviate pain. In a coöperative exhibit, University of Wisconsin pharmacologists and anesthetists will collaborate with similar groups from the University of California in a demonstration of modern anesthesia.

An unusual cancer exhibit, which will illustrate the steps being taken to check this most dreaded of all diseases, will have the coöperation of the American College of Surgeons and other noted groups. Use of radium, x-ray, and surgical treatment will be demonstrated as well as modern preventive measures.

Other important subjects to be covered by the American College of Surgeons include the treatment of bone injury, particularly the new plastic bone surgery. Directing the American College of Surgeons' activities at the Exposition will be a committee composed of Dr. Howard Naffziger of the University of California, president-elect of the Association; Dr. Frank Lynch, also of the University of California, vice-president; Dr. Emile Holman of Stanford University; and Dr. Malcolm McEachern of Chicago.

The story of teeth and their connection with general health will be vividly portrayed in the Hall of Science by the exhibit of the American Dental Association. As a central feature of these booths a moving model will demonstrate in a novel way how teeth are formed and grow in the mouth. A series of illustrations will also show how apparently healthy teeth can decay and how many dental troubles can be prevented from spreading to other parts of the body, particularly the heart, kidneys, and bones. Of especial interest to the layman will be a portrayal of the history of dentistry from its earliest beginnings. The crude methods of the ancient man of brawn will be vividly contrasted with the technique of the skilled specialists of today.

Another phase of the Health and Science show will deal with the prevention of diseases transmitted from household pets and other animals to man, such as tuberculosis, rabies, and Malta fever. This section of the Exposition will be under the direction of the American Veterinary Medical Association. Prevention and treatment of disease in animals also will be included in this section of the Hall, which will be under the direction of Dr. C. M. Haring of the Veterinary Science Department of the University of California.

In still another section of the vast Hall of Science industrial chemical companies will show the contributions of modern chemistry in scientific nutrition with all its import to the health of man. Other displays by the chemical industry will show the development of synthetic plastics, compounds which are beginning to be of great importance in improving man's comfort and industrial efficiency.

From the viewpoint of the layman, the medical exhibits of the San Francisco Fair will show how the application of precautionary measures can help prevent the inception of disease and the spread of infection. Every field of medicine is being drafted to help carry out this ambitious program.

For additional information, address Golden Gate International Exposition, 585 Bush Street, San Francisco.

### PROPOSED INITIATIVE: MEDICINE AND SURGERY\*

#### Proposed Initiative Law: Sponsors Hoping to Place Same on 1938 State Election Ballot

The Attorney-General has entitled and summarized the chief purposes of the proposed amendment and the points of such as follows:

**Medicine and Surgery—Initiative.**—Defines "practice of medicine" as use or prescription of poisonous drugs or medicinal preparations in treating human ailments, and remedying results of violence of accident by other than orthopedic surgery, excluding from definition all other healing practices. Provides penalties for unnecessary major surgery and creates conclusive presumption that surgery unnecessary if diagnosis is erroneous or no pathology is found justifying operation. Creates conclusive presumption of unskillfulness if person operating has less than five hundred hours' academic surgical training or has taken part in less than fifty major operations. Requires prescriptions be written in English language.

\* \* \*

*The people of the State of California do enact as follows:*

#### PUBLIC HEALTH LIABILITY ACT

*An Act to protect the public health by providing terms and conditions upon which major surgery may be performed and upon which prescriptions for any substance for treatment of human beings may be issued and dispensed; providing liabilities for the advising of or the performing of unnecessary or unskillful major surgical operations on human beings; defining major surgery and minor surgery, and practice of medicine requiring reports following major surgical operations; repealing all acts or parts of acts in conflict herewith. Provides penalties for violation of Act.*

Section 1. This Act shall be known and cited as the "Public Health Liability Act."

\* For further comment concerning this proposed law, the sponsors of which are seeking approval from Public Health Committees of Chambers of Commerce and other organizations, see in this issue, on page 5.

The copy of this Initiative came into our hands as the manuscripts for the January issue of CALIFORNIA AND WESTERN MEDICINE were going forward to the printer. For the information of California Medical Association members the letter which was received by members of the Public Health Committee of the Los Angeles Chamber of Commerce is printed below. In the text of the Initiative, the italics have been inserted by the Editor, to permit easier reference.† Letter to the committee members follows:

LOS ANGELES CHAMBER OF COMMERCE

Los Angeles, California,  
December 16, 1937.

To All Members of the Public Health Committee,  
Los Angeles Chamber of Commerce.  
Dear Committee Member:

A special meeting of the Public Health Committee will be held at 12:15 p. m. on Wednesday, December 22, at the Los Angeles Chamber of Commerce, for the purpose of discussing the Public Health Liability Act, Initiative Petition No. 29.

Mr. Frank W. Walden has been invited to meet with the committee at this time, as well as a number of other interested individuals.

This is an important matter, and I hope that all committee members will be present.

Very sincerely yours,

LOS ANGELES CHAMBER OF COMMERCE.

Geo. H. Cecil,  
Secretary, Public Health Committee.

† Later memo: On Wednesday, December 22, the Public Health Committee of the Los Angeles Chamber of Commerce voted to recommend nonapproval of this proposed initiative law.

Sec. 2. It shall be unlawful for any person to perform any unnecessary major surgical operation upon any human being or to sever any tissue of a human being unnecessarily, or to advise or prescribe for any unnecessary major surgical operation or the unnecessary severance of any tissue of a human being.

Sec. 3. An unnecessary major surgical operation is conclusively presumed where no pathology is found to exist which would justify a major surgical operation as performed, or a major surgical operation performed in pursuance of a wrong diagnosis, or a major surgical operation performed from which the patient could not reasonably be expected to receive the relief of disorder upon which the operation was promised.

Sec. 4. It shall be conclusively presumed that a major surgical operation was unskillfully performed unless the person so performing the said operation has had at the time of performing the said operation not less than five hundred hours of training in the subject of major surgery in a duly chartered college of healing; or, who at the time of the adoption of this Act attended and took part in not less than fifty major surgical operations prior to adoption of this Act; or if from the results of the said operation it is proved that the person performing the said operation did not have the necessary skill or training requisite to perform such an operation.

Sec. 5. Nothing in this Act shall be construed as justifying any person for the negligent performance of any major surgical operation regardless of skill or training.

Sec. 6. A wrong diagnosis is hereby defined to be a wrong conclusion relative to a major surgical procedure, or a wrong conclusion respecting the nature or character of the patient's condition, or a wrong determination of the existing pathology in the patient.

Sec. 7. The burden of proof of proper training, experience, skill and diagnosis shall be upon the person performing the said operation as a matter peculiarly within the knowledge of the said person.

Sec. 8. Before performing any major surgical operation, the person advising, if he is not to personally perform the said operation, and in any case the person who is to perform the said operation shall sign a written diagnosis of the patient's condition and the necessary purpose of the proposed operation in detail and shall deliver a copy of the said diagnosis and purpose of the proposed operation to the patient or his designated representative. The said writing shall be fully descriptive, definite, and certain. Any waiver or modification of this provision shall be void.

Sec. 9. Immediately following the performance of any major surgical operation, and in not more than five days thereafter, the person performing the said operation shall forward all, and each and every part, of excised normal or pathological tissue removed from the patient in the said operation to the State Department of Public Health, together with a copy of the surgical record. It shall be the duty of the said State Department of Public Health to examine the said tissue and to make a full and complete laboratory and other indicated report of findings from the specimens and tissue received. The making of a false report, or the making of an incomplete report as required herein shall be a violation of the Act. The report herein required shall be delivered to the patient or any designated representative in not more than twenty days after receipt of the said tissue, and there shall be no charge for the said report beyond the actual cost thereof.

Sec. 10. The said Department of Public Health shall retain the said tissue in proper state of preservation for a period of three hundred days unless that at any time before disposal of the said tissue or specimens on written demand, it shall deliver the same to any laboratory designated by the patient or his authorized representative. The patient may have a professional representative present during the examination of the aforesaid tissue by the said Department of Public Health.

Sec. 11. Provided, however, that where it appears that an emergency exists in fact the provisions of Section 8 shall not need be complied with prior to the operation, but that the said diagnosis shall be filed within forty-eight hours after the said operation has been performed. An emergency is defined to be the result of a traumatism or a condition existing that could not normally be calculated upon. Provided further, that, where this emergency provision is proved to have been used as a subterfuge to avoid